

# Editorial: Who wants good advice when you can buy bad?

Marty Trillhaase

Nobody in the Idaho Legislature says Attorney General Lawrence Wasden is giving them bad advice.

They just don't agree with the good advice Wasden's giving them.

So rather than heed what Wasden is telling them, these lawmakers want to squander your money buying bad advice.

Then they intend to waste more of your money following this bad advice.

Finally, they lose even more of your money when the bad lawyering backfires on them.

That's right. The same lawmakers who slashed spending on schools, higher education and health care during the Great Recession and have yet to restore those cuts now have \$200,000 to hire their own lawyers. In the House, their plan passed on a party-line vote. Only three GOP members - including Moscow's Tom Trail and Lewiston's Jeff Nessel - voted no. In the Senate, where it passed 23-11 Wednesday, only five Republicans - including Lewiston's Dan Johnson - voted no.

This comes on the heels of last year's flirtation with hiring a legislative attorney who would tell lawmakers what they want to hear.

Then just a couple of weeks ago, 18 House members - including House Speaker Lawrence Denney, R-Midvale, Majority Leader Mike Moyle, R-Star, and four committee chairmen - voted against Wasden's office budget bill.

What's got them so upset? The legal opinions Wasden's office provides under law at the request of a member of government. True, those requests often come from people who oppose a particular bill, suspect it's legally flawed and believe that information will help defeat it.

Denney, Moyle and company might have a point if Wasden were delivering partisan opinions. But it's Wasden's obligation to inform his clients about what the law and the courts have said, not what they'd like to hear.

When a legislator gets this bad news, he can change his bill, amend the Constitution or find another fight to wage. What he can't do is ask the attorney general to tell him what the Constitution doesn't say.

Turns out the attorney general's track record is pretty good.

Last year, Wasden's office joined a chorus of legal and constitutional scholars by informing House members of the obvious: They could no more nullify the federal health care reform act than establish their own army. The law of the land is supreme.

Even Gov. C.L. (Butch) Otter was compelled to veto a watered-down version of the nullification bill.

When lawmakers have disregarded Wasden's advice and pursued anti-organized labor laws, they've come to regret it. A 2003 attempt attempt to stifle payroll deductions would conflict with federal laws, Wasden said. The courts validated Wasden's analysis.

Last year, Wasden warned against a legislative attempt to ban unions from using dues to subsidize member's wages in order to help union contractors score winning bids on projects. Lawmakers proceeded anyway. In July, U.S. District Judge B. Lynn Winmill ruled against the state. Unless the state wins on appeal, it will have to pay the unions' lawyer bills, which is put between \$200,000 and \$275,000.

This winter, Denney and Idaho Republican Party Chairman Norm Semanko wanted to fire their two appointees on the six-member redistricting commission. Secretary of State Ben Ysursa said they had no such right. Wasden backed Ysursa.

So Denney and Semanko hired their own attorney, Christ Troupis, who wrote a five-page treatise about how inept Wasden's reasoning had been.

Troupis, it turned out, failed to file a brief, a rather basic part of being a lawyer. So the Idaho Supreme Court tossed his challenge.

Lawmakers and Wasden now are wrangling about the Land Board. Wasden, a member of the five-member board, supports that panel's decision to invest endowment resources into profitable businesses such as Affordable Storage of Boise. Doing so means more endowment income for Idaho schools, colleges and hospitals.

Lawmakers don't like that policy. But whenever lawmakers have tried to direct endowment investment policies, the courts have slapped their wrists.

Before they spend one dime of this money on lawyers, let these lawmakers answer this: Show us how many times they disregarded Wasden's opinion and then showed him up by winning in court. - M.T.